



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

September 14, 2020

BY ECF

The Honorable John F. Keenan
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: *United States v. Prince Wareham*, 16 Cv. 4700 (JFK); 11 Cr. 912 (JFK)

Dear Judge Keenan:

By Order dated June 9, 2020, with the consent of the defendant, this Court granted a three-month stay in the above-captioned habeas proceedings, pending the resolution of the potentially relevant, fully-briefed appeals in *United States v. McCoy*, No. 17-3515 (argued Oct. 23, 2019), and *United States v. Collymore*, No. 19-0596 (argued June 1, 2020). (See Dkt. No. 333). The Court further directed the parties to file a joint status letter with the Court no later than September 14, 2020.

The *McCoy* and *Collymore* appeals remain pending before the Second Circuit. A third, fully-briefed Second Circuit appeal addressing the same issue, *United States v. Darren Morris*, Dkt. No. 16-6, was argued on June 25, 2020, and also remains pending. Because the exact issue presented in this case is likely to be decided by the Second Circuit in these pending appeals, the Government seeks a further stay of the instant habeas proceedings. The prospect of a Second Circuit decision bearing on the merits of the defendant's claims weighs in favor of a continued stay. See *Wang v. United States*, No. 13-CV-3524 DLI, 2015 WL 1966465, at *2 (E.D.N.Y. Apr. 30, 2015) (staying habeas proceedings pending the disposition of a Supreme Court case involving "the same question of law," in the interest of "judicial economy"); see also *Louis Vuitton Malletier S.A. v. LY USA, Inc.*, 676 F.3d 83, 96 (2d Cir. 2012) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936))).

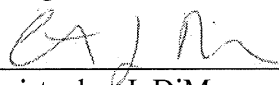
Accordingly, the Government respectfully requests that the instant 2255 petition remain stayed pending the Second Circuit's decisions in *McCoy*, *Collymore*, and/or *Morris*. I have conferred with Barry Leiwant, Esq., counsel for the defendant, who has informed me that he consents to this

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application. The Government further respectfully requests that the Court set a deadline for a status update letter from the parties in approximately three months' time.

Respectfully submitted,

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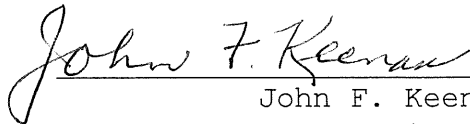
cc: Barry Leiwant, Esq. (by electronic mail)

MEMO ENDORSED

Defense counsel having no objection, the Government's request to continue the stay pending resolution of potentially relevant cases before the Second Circuit is GRANTED. The parties shall file a joint status update by no later than January 4, 2021.

SO ORDERED.

Dated: New York, New York
September 29, 2020


John F. Keenan
United States District Judge